

Representative Bill Wright proposes the following substitute bill:

SPECIAL ELECTIONS MODIFICATIONS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill amends requirements for calling a local special election and limits the date of certain special elections called by a local school board to the first Tuesday after the first Monday in November except in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ prohibits a local political subdivision from holding a local special election on the fourth Tuesday in June for a bond, levy, leeway, or sales tax issue without a two-thirds majority vote of the local legislative body;
- ▶ limits the date of a special election called by a local school board to the first Tuesday after the first Monday in November except:
 - for a vote on a voted leeway; or
 - if there is at least one other ballot proposition or candidate nomination on the ballot for the local special election; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

§B0119§04

Other Special Clauses:

This bill takes effect on July 1, 2010.

Utah Code Sections Affected:**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2009, Chapter 45

20A-1-203, as last amended by Laws of Utah 2008, Chapter 16

20A-1-204, as last amended by Laws of Utah 2008, Chapters 16 and 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-1-102** is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots, and other ballots that are machine-countable.

(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that contain the names of offices and candidates and statements of ballot propositions to be voted on and which are used in conjunction with ballot sheets that do not display that information.

(6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

- 56 (c) an initiative;
57 (d) a referendum;
58 (e) a bond proposition;
59 (f) a judicial retention question; or
60 (g) any other ballot question specifically authorized by the Legislature.
- 61 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
62 20A-4-306 to canvass election returns.
- 63 (8) "Bond election" means an election held for the purpose of approving or rejecting
64 the proposed issuance of bonds by a government entity.
- 65 (9) "Book voter registration form" means voter registration forms contained in a bound
66 book that are used by election officers and registration agents to register persons to vote.
- 67 (10) "By-mail voter registration form" means a voter registration form designed to be
68 completed by the voter and mailed to the election officer.
- 69 (11) "Canvass" means the review of election returns and the official declaration of
70 election results by the board of canvassers.
- 71 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
72 the canvass.
- 73 (13) "Convention" means the political party convention at which party officers and
74 delegates are selected.
- 75 (14) "Counting center" means one or more locations selected by the election officer in
76 charge of the election for the automatic counting of ballots.
- 77 (15) "Counting judge" means a poll worker designated to count the ballots during
78 election day.
- 79 (16) "Counting poll watcher" means a person selected as provided in Section
80 20A-3-201 to witness the counting of ballots.
- 81 (17) "Counting room" means a suitable and convenient private place or room,
82 immediately adjoining the place where the election is being held, for use by the poll workers
83 and counting judges to count ballots during election day.
- 84 (18) "County executive" has the meaning as provided in Subsection 68-3-12(2).
85 (19) "County legislative body" has the meaning as provided in Subsection 68-3-12(2).
86 (20) "County officers" means those county officers that are required by law to be

elected.

(21) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(22) "Election Assistance Commission" means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(23) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(24) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(25) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots;

(b) the county clerk or clerks for all county ballots and for certain ballots and elections as provided in Section 20A-5-400.5;

(c) the municipal clerk for all municipal ballots and for certain ballots and elections as provided in Section 20A-5-400.5;

(d) the local district clerk or chief executive officer for certain ballots and elections as provided in Section 20A-5-400.5; and

(e) the business administrator or superintendent of a school district for certain ballots or elections as provided in ~~[Section 20A-5-400.5]~~ Subsection 20A-1-204(1)(a)(iii).

(26) "Election official" means any election officer, election judge, or poll worker.

(27) "Election results" means, for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(28) "Election returns" includes the pollbook, all affidavits of registration, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(29) "Electronic ballot" means a ballot that is recorded using a direct electronic voting

118 device or other voting device that records and stores ballot information by electronic means.

119 (30) (a) "Electronic voting device" means a voting device that uses electronic ballots.

120 (b) "Electronic voting device" includes a direct recording electronic voting device.

121 (31) "Inactive voter" means a registered voter who has been sent the notice required by
122 Section 20A-2-306 and who has failed to respond to that notice.

123 (32) "Inspecting poll watcher" means a person selected as provided in this title to
124 witness the receipt and safe deposit of voted and counted ballots.

125 (33) "Judicial office" means the office filled by any judicial officer.

126 (34) "Judicial officer" means any justice or judge of a court of record or any county
127 court judge.

128 (35) "Local district" means a local government entity under Title 17B, Limited Purpose
129 Local Government Entities - Local Districts, and includes a special service district under Title
130 17D, Chapter 1, Special Service District Act.

131 (36) "Local district officers" means those local district officers that are required by law
132 to be elected.

133 (37) "Local election" means a regular municipal election, a local special election, a
134 local district election, and a bond election.

135 (38) "Local political subdivision" means a county, a municipality, a local district, or a
136 local school district.

137 (39) "Local special election" means a special election called by the governing body of a
138 local political subdivision in which all registered voters of the local political subdivision may
139 vote.

140 (40) "Municipal executive" means:

141 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;
142 and

143 (b) the mayor in the council-manager form of government defined in Subsection
144 10-3b-103(6).

145 (41) "Municipal general election" means the election held in municipalities and local
146 districts on the first Tuesday after the first Monday in November of each odd-numbered year
147 for the purposes established in Section 20A-1-202.

148 (42) "Municipal legislative body" means the council of the city or town in any form of

149 municipal government.

150 (43) "Municipal officers" means those municipal officers that are required by law to be
151 elected.

152 (44) "Municipal primary election" means an election held to nominate candidates for
153 municipal office.

154 (45) "Official ballot" means the ballots distributed by the election officer to the poll
155 workers to be given to voters to record their votes.

156 (46) "Official endorsement" means:

157 (a) the information on the ballot that identifies:

158 (i) the ballot as an official ballot;

159 (ii) the date of the election; and

160 (iii) the facsimile signature of the election officer; and

161 (b) the information on the ballot stub that identifies:

162 (i) the poll worker's initials; and

163 (ii) the ballot number.

164 (47) "Official register" means the official record furnished to election officials by the
165 election officer that contains the information required by Section 20A-5-401.

166 (48) "Paper ballot" means a paper that contains:

167 (a) the names of offices and candidates and statements of ballot propositions to be
168 voted on; and

169 (b) spaces for the voter to record his vote for each office and for or against each ballot
170 proposition.

171 (49) "Political party" means an organization of registered voters that has qualified to
172 participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party
173 Formation and Procedures.

174 (50) (a) "Poll worker" means a person assigned by an election official to assist with an
175 election, voting, or counting votes.

176 (b) "Poll worker" includes election judges.

177 (c) "Poll worker" does not include a watcher.

178 (51) "Pollbook" means a record of the names of voters in the order that they appear to
179 cast votes.

180 (52) "Polling place" means the building where voting is conducted.

181 (53) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
182 in which the voter marks his choice.

183 (54) "Provisional ballot" means a ballot voted provisionally by a person:

184 (a) whose name is not listed on the official register at the polling place;

185 (b) whose legal right to vote is challenged as provided in this title; or

186 (c) whose identity was not sufficiently established by a poll worker.

187 (55) "Provisional ballot envelope" means an envelope printed in the form required by
188 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
189 verify a person's legal right to vote.

190 (56) "Primary convention" means the political party conventions at which nominees for
191 the regular primary election are selected.

192 (57) "Protective counter" means a separate counter, which cannot be reset, that is built
193 into a voting machine and records the total number of movements of the operating lever.

194 (58) "Qualify" or "qualified" means to take the oath of office and begin performing the
195 duties of the position for which the person was elected.

196 (59) "Receiving judge" means the poll worker that checks the voter's name in the
197 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
198 after the voter has voted.

199 (60) "Registration form" means a book voter registration form and a by-mail voter
200 registration form.

201 (61) "Regular ballot" means a ballot that is not a provisional ballot.

202 (62) "Regular general election" means the election held throughout the state on the first
203 Tuesday after the first Monday in November of each even-numbered year for the purposes
204 established in Section 20A-1-201.

205 (63) "Regular primary election" means the election on the fourth Tuesday of June of
206 each even-numbered year, at which candidates of political parties and nonpolitical groups are
207 voted for nomination.

208 (64) "Resident" means a person who resides within a specific voting precinct in Utah.

209 (65) "Sample ballot" means a mock ballot similar in form to the official ballot printed
210 and distributed as provided in Section 20A-5-405.

(66) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(67) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after he has voted it in order to preserve the secrecy of the voter's vote.

(68) "Special election" means an election held as authorized by Section 20A-1-204.

(69) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(70) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(71) "Stub" means the detachable part of each ballot.

(72) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(73) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(74) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(75) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(76) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a valid tribal identification card, whether or not the card includes a photograph of the voter;

(b) two forms of identification that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid Social Security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) a currently valid United States military identification card;

(ix) certified naturalization documentation;

(x) a currently valid license issued by an authorized agency of the United States;

(xi) a certified copy of court records showing the voter's adoption or name change;

(xii) a Bureau of Indian Affairs card;

(xiii) a tribal treaty card;

(xiv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xv) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state;

(xvi) a current Utah vehicle registration; or

(xvii) a form of identification listed in Subsection (76)(a) that does not contain a photograph, but establishes the name of the voter and provides evidence that the voter resides in the voting precinct, if at least one other form of identification listed in Subsection (76)(b)(i) through (xv) is also presented.

(77) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(78) "Voter" means a person who meets the requirements for voting in an election, meets the requirements of election registration, is registered to vote, and is listed in the official register book.

(79) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(80) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(81) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(82) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(83) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(84) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(85) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(86) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(87) "Western States Presidential Primary" means the election established in Title 20A, Chapter 9, Part 8.

(88) "Write-in ballot" means a ballot containing any write-in votes.

(89) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section **20A-1-203** is amended to read:

20A-1-203. Calling and purpose of special elections.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted leeway or levy program authorized by Section 53A-16-110, 53A-17a-133, or 53A-17a-134;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedure;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53A-2-117, following the creation of a new school district under Section 53A-2-118.1; or

(viii) an election of town officers of a newly incorporated town under Subsection 10-2-125(9).

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority vote of all members of the legislative body, if the local special election held on the fourth Tuesday in June and is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 3. Section **20A-1-204** is amended to read:

20A-1-204. Date of special election -- Legal effect.

(1) (a) (i) ~~[The]~~ Except as provided by Subsection (1)(a)(ii), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or a local special election under Section 20A-1-203 shall schedule the special election to be held on:

~~[(i)]~~ (A) the fourth Tuesday in June; or

~~[(ii)]~~ (B) the first Tuesday after the first Monday in November; or

~~[(iii)]~~ (C) for an election of town officers of a newly incorporated town under Subsection 10-2-125(9), on any date that complies with the requirements of that subsection.

(ii) Except as provided by Subsection (1)(a)(iii), a local school board calling a local special election under Section 20A-1-203 shall schedule the special election to be held on the first Tuesday after the first Monday in November.

(iii) The local school board calling a local special election under Section 20A-1-203 may schedule the special election to be held on the fourth Tuesday in June:

(A) for a vote on a voted leeway; or

(B) if there is at least one other ballot proposition or candidate nomination on the ballot

for the local special election.

(b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 may not schedule a special election to be held on any other date.

(c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

(A) determines and declares that there is a disaster, as defined in Section 63K-3-102, requiring that a special election be held on a date other than the ones authorized in statute;

(B) identifies specifically the nature of the disaster, as defined in Section 63K-3-102, and the reasons for holding the special election on that other date; and

(C) votes unanimously to hold the special election on that other date.

(ii) The legislative body of a local political subdivision may not call a local special election for the date established in Title 20A, Chapter 9, Part 8, Western States Presidential Primary, for Utah's Western States Presidential Primary.

(d) Nothing in this section prohibits:

(i) the governor or Legislature from submitting a matter to the voters at the regular general election if authorized by law; or

(ii) a local government from submitting a matter to the voters at the regular municipal election if authorized by law.

(2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a special election within a county on the same day as:

(i) another special election;

(ii) a regular general election; or

(iii) a municipal general election.

(b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

(i) polling places;

(ii) ballots;

(iii) election officials; and

(iv) other administrative and procedural matters connected with the election.

Section 4. **Effective date.**

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This bill takes effect on July 1, 2010.